

Notice of Allowability

Application No.

10/021,112

Examiner

Vincent P. Barth

Applicant(s)

CURTIS, RICHARD H.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment dated 22 Dec. 2003.
2. ☒ The allowed claim(s) is/are 1-36.
3. ☒ The drawings filed on 12 Dec. 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____ | 7 <input type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

DETAILED ACTION

Preliminary Comments

1. Applicant's Amendments dated 22 December 2003 have placed the Application in a condition for allowance as written. Accordingly, the following represents a reasoned statement for allowability.

Allowable Subject Matter

2. Claims 1-36 are allowable, since the prior art references, either considered alone or in combination, do not disclose or render obvious the limitations set forth therein.

3. Referring to Claim 1, the prior art references, either considered alone or in combination, do not disclose or render obvious the limitations whereby a system for calibrating a liquid volume includes providing a sample solution with first and second chromophores with a maximum absorbance peaks at least 100 nm apart, and a blank solution only the second chromophore in equal concentration, and determining the volume based on the absorbance measurements of the sample and blank solutions, in combination with the remaining limitations in the claim. Claims 2-23 are allowable based on their dependency upon the claim from which each is dependent. Referring to Claim 24, the prior art references, either considered alone or in combination, do not disclose or render obvious the limitations whereby the contact angle between the sample solution and the wall of the sample holder is between 80 and 100 degrees, in combination with the remaining limitations in the claim. Claims 25-30 are allowable based on their dependency upon the claim from which each is dependent. Referring to Claim 31, the prior

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art references, either considered alone or in combination, do not disclose or render obvious the limitations whereby a system for calibrating a liquid volume includes providing a sample solution with first and second chromophores with a maximum absorbance peaks at least 100 nm apart, and a blank solution only the second chromophore in equal concentration, and determining the volume based on the absorbance measurements of the sample and blank solutions, in combination with the remaining limitations in the claim. Referring to Claim 32, the prior art references, either considered alone or in combination, do not disclose or render obvious the limitations whereby a system for calibrating a liquid volume includes providing a sample solution with first and second chromophores with a maximum absorbance peaks at least 100 nm apart, and a blank solution only the second chromophore in equal concentration, and determining the volume based on the absorbance measurements of the sample and blank solutions, in combination with the remaining limitations in the claim. Referring to Claim 33, the prior art references, either considered alone or in combination, do not disclose or render obvious the limitations whereby a system for calibrating a liquid volume includes providing a sample solution with first and second chromophores with a maximum absorbance peaks at least 100 nm apart, and a blank solution only the second chromophore in equal concentration, and determining the volume based on the absorbance measurements of the sample and blank solutions, in combination with the remaining limitations in the claim. Claim 34 is allowable based on its dependency upon the claim from which it is dependent. Referring to Claim 35, the prior art references, either considered alone or in combination, do not disclose or render obvious the limitations whereby a system for calibrating a liquid volume includes providing a sample solution with first and second chromophores with a maximum absorbance peaks at least 100 nm

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apart, and a blank solution only the second chromophore in equal concentration, and determining the volume based on the absorbance measurements of the sample and blank solutions, as well as the contact angle between the sample solution and the wall of the sample holder being between 80 and 100 degrees, in combination with the remaining limitations in the claim. Referring to Claim 36, the prior art references, either considered alone or in combination, do not disclose or render obvious the limitations whereby a computer readable medium calculates a liquid volume based on the concentration of a chromophore in the sample, and a quantification of the non-linearity from the Beer-Lambert law of the reading, in combination with the remaining limitations in the claim.

Comments

4. Applicant has amended the Specification to identify element 60 in Fig. 4, thus the objection pertaining thereto is withdrawn, such amendment not having introduced new matter. Moreover, the rejections of Claims 21, 22 and 32-34 under §112 are withdrawn, having been either remedied by amendments to the claims, or having been appropriately traversed. Similarly, the rejections of Claims 32-34 and 36 under §103 are withdrawn, having been either remedied by amendments to the claims, or having been appropriately traversed.

CONCLUSION

5. Applicant's Claims 1-36 are allowed based on the reasons set forth above.
6. Any inquiries concerning this communication from the Examiner should be directed to Vincent P. Barth, whose telephone number is 703-605-0750, and who may be ordinarily reached from 9:00 a.m. to 5:30 p.m., Monday through Friday. Note that Examiner Barth expects to move to the new U.S. Patent Office location on or about 21 January 2004, and will have a new telephone number following that date, which is: (571) 272-2410. The official fax number for communications to the group is 703-872-9306. Note that this fax number is new, and replaces the numbers provided in previous communications from the group.
7. If attempts to reach the Examiner prove unsuccessful, the Examiner's supervisor is Frank G. Font, who may be reached at 703-308-4881.
8. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.



Richard A. Rosenberg
Primary Examiner